

REMARKS

Applicant respectfully requests reconsideration of the present application in view of this response. By way of this Amendment, claims 12-14 and 16-20 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1, 3-6, and 8-11 are currently pending in the present application. Of those, claim 9 has been amended, and claims 1 and 6 are independent claims. With regard to canceled claims 2, 7 and 12-20, Applicant reserves the right to file one or more divisional and/or continuation applications directed to one or more of these canceled claims.

ALLOWABLE SUBJECT MATTER

Applicant acknowledges and thanks the Examiner for the allowance of claims 1, 3-6 and 8-11.

ENTRY OF AMENDMENT AFTER FINAL

Applicant respectfully requests entry of this Amendment after final in that the claim amendments only place the present application in condition for allowance by canceling rejected claims 12-14 and 16-20, and alleviating the outstanding objections of claims 9 and 11 by correcting a minor typographical error.

CLAIM OBJECTIONS

As noted above, Applicant has amended claim 9 to correct a minor typographical error and taking into account the Examiner's suggestions in the July 5, 2005. Further, Applicant respectfully submits that all such amendments to claim 9 do not raise any new issues requiring further search and/or consideration, have not been made to overcome any prior art rejection, and have been made for no other reason than to put claims 9 and 11 more in accordance with current United States Patent and Trademark Office Practice and Procedure.

COMMENTS REGARDING PERSONAL INTERVIEW

Initially, Applicant thanks the Examiner for his valuable time in conducting a personal interview with Applicant's Representative. During said personal interview, the Examiner and Applicant's Representative primarily discussed the outstanding rejection of claim 12 under 35 U.S.C. § 103(a) in view of Schmidt and Motchenbacher and the rejection of claim 19 under 35 U.S.C. §102 in view of Schmidt. More specifically with regard to claim 12, for example, Applicant argued that Schmidt and Motchenbacher are directed to two very different measurement devices and, thus, the skilled artisan would not have been motivated to combine Schmidt and Motchenbacher at the time the invention was made. However, the Examiner disagreed and has maintained his position regarding the alleged combination of Schmidt and Motchenbacher.

Further, with regard to claim 12, Applicant also argued that even assuming arguendo that Schmidt could be combined with Motchenbacher (which Applicant did not, and still does not, admit); Motchenbacher still does not make up for the deficiencies of Schmidt with regard to claim 12, for example. More specifically, Applicant submits that while Motchenbacher arguably discloses measuring a distance based on reflection of light, Motchenbacher does not teach or suggest measuring, "at least one displacement of the at least one contact element based on at least one of refraction and reflection of light by the scale," as set forth in claim 12. Accordingly, the alleged combination of Schmidt and Motchenbacher does not teach or suggest all of the limitations set forth in claim 12.

However, again, the Examiner disagreed and submits that Schmidt teaches all of the limitations set forth in claim 12 except for a measurement based on reflection or refraction of light. The Examiner further submits that Motchenbacher teaches measuring a displacement based on reflection of light and, thus, makes up for the deficiencies of Schmidt with regard to claim 12.

No agreement was reached regarding the outstanding rejections of claim 12.

The Examiner and Applicant's Representative also discussed possible minor clarifying amendments to claims 12 and 19, which may overcome the cited art by the Examiner. More specifically, as indicated on the Interview Summary (attached hereto), the Examiner indicated that a minor amendment to claim 12 indicating that light is emitted by the read head would overcome

the art (e.g., Schmidt and Motchenbacher) previously cited by the Examiner. Furthermore, with regard to claim 19, while the Examiner indicated that a minor clarification amendment to claim 19 indicating that the contact element is in contact with the surface, would need further consideration.

At the conclusion of the personal interview, the Examiner indicated to Applicant's Representative that the above discussed amendments to claims 12 and/or 19 would raise new issues requiring further search and/or consideration.

PRIOR ART REJECTIONS

Rejections under 35 U.S.C. § 102(b)

Claim 19 stand rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Schmidt (U.S. Patent No. 4,736,208).

By way of this response, Applicant has canceled claim 19 without prejudice or disclaimer of the subject matter contained therein. Accordingly, Applicant respectfully submits that the above rejection is moot.

Rejections under 35 U.S.C. §103(a)

Claims 12-14 and 16, 18, and 20 stand rejected under 35 U.S.C. §103(a) as allegedly being anticipated by Schmidt in view of Motchenbacher (U.S. Patent No. 3,232,099).

By way of this response, Applicant has canceled claims 12-14, 16-18 and 20 without prejudice or disclaimer of the subject matter contained therein. Accordingly, Applicant respectfully submits that the above rejection is moot.

U.S. Serial No. 10/635,681

Page 9

CONCLUSION

In view of above remarks, Applicant respectfully submits that the present application, including pending claims 1, 3-6 and 8-11, is in condition for allowance.

Pursuant to 37 C.F.R. 1.17 and 1.136(a), the Applicant respectfully petitions for a third month extension of time for filing a response in connection with the present application. Applicant previously paid for a two month extension of time with the filing of the Amendment After Final on June 22, 2005. Therefore, the remaining fee of \$570.00 is attached.

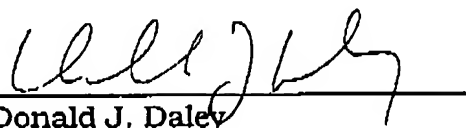
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By


Donald J. Daley
Reg. No. 34,313

DJD/AMW:jcp

P.O. Box 8910
Reston, VA 20195
(703) 668-8000

BEST AVAILABLE COPY